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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/889,503	10/22/2001	Eric Terranova	05725.0944	4279

7590

08/06/2003

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EXAMINER

ELHILO, EISA B

ART UNIT

PAPER NUMBER

1751

11

DATE MAILED: 08/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/889,503

Applicant(s)

TERRANOVA ET AL.

Examiner

Eisa B Elhilo

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1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 23-65 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 23-25, 28, 29, 32-37 and 40-55 is/are rejected.
- 7) ☒ Claim(s) 26, 27, 30, 31, 38 and 39 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1 This action is responsive to the response filed on June 03,2003.

2 Claims 23-25, 28-29, 32-37, 40-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terranova et al. (WO 97/49378), for the reasons set forth in the office action in paper No. 9, dated on 3/03/2003.

3 Claims 26,27,30,31,38 and 39 are objected to for the reasons set forth in the office action in paper No. 9, dated on 3/03/2003.

#### *Response to Applicant's Arguments*


4 Applicant's arguments filed 6/03/2003 have been fully considered but they are not persuasive.

With respect to the rejection based upon Terranova (WO' 378), Applicant argues that the reference does not teach or disclose the claimed dyeing composition that comprises the pyrazolo[1,5-a]pyrimidines having a cationic group of a quaternary amine. The applicant also argues that quaternary amines are different from primary, secondary and tertiary amines. Further, the applicant argues that there is no suggestion or motivation in the reference itself that the compound should be cationic.

The Examiner respectfully, disagrees with the above arguments because the reference teaches a hair dyeing composition comprising a pyrazolo[1,5-a]pyrimidine derivatives of the formula (I) which is similar to the claimed formula (I) which is similar to the claimed formula (I), when in the reference's formula (I), R1, R2, R3 and R4, which may be identical or different denote a hydrogen atom, X, which may be identical or different denotes di[(C<sub>1</sub>-C<sub>4</sub>)alkyl] amino(C<sub>1</sub>-C<sub>4</sub>) alkyl radical (it being possible for the dialkyls to form a 5- or 6-membered

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heterocyclic ring),  $i = 1$ ,  $p$  is equal to 0 or 1,  $q$  is equal to 0 or 1,  $n$  is equal to 0 or 1 with all the proviso limitations (see page 3, lines 1-27), and when in the claimed formula (1),  $A$  is amino radical,  $R_1$  and  $R_2$  are hydrogen atoms,  $R_3$  is a  $Z$  group of the claimed formulae (II), (III) or (IV). Further, the reference teaches the addition salts of the pyrazolo[1,5-a]pyrimidine compound that formed with an acid or with a base (see col. 2, lines 5-7), which implies that the addition salts of the compound generated the cationic part of the compound and, thus, the person of the ordinary skill in the art would expect such a compound to have a cationic nature due the presence of the compound in the salt form and hence the compound can be used as a neutral compound (tertiary amine) or in its salt form (quaternary amine or cationic form). Therefore, the prima facie case of obviousness has been established.

 **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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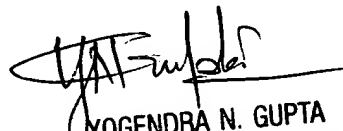
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eisa B Elhilo whose telephone number is (703) 305-0217. The examiner can normally be reached on M - F (7:30-5:00) with alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (703) 308-4708. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Elhilo  
July 29, 2003



YOGENDRA N. GUPTA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700